

Service Date: April 23, 1992

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER OF The Application	)	UTILITY DIVISION
by the MONTANA POWER COMPANY for	)	
Authority to Increase Rates for	)	DOCKET NO. 90.6.39
Natural Gas and Electric Service.	)	ORDER NO. 5484v

ORDER AMENDING PROTECTIVE ORDER NO. 5484q

BACKGROUND

On January 9, 1992 Montana Power Company (MPC) filed a Motion for Protective Order with the Montana Public Service Commission (Commission) to limit access and use of all material and information submitted by MPC which is obtained from Telecommunications Resources, Inc. (TRI) to response to FOF #70, Order No. 5484p in this Docket.

On January 31, 1992 the Commission issued Protective Order, Order No. 5484q, covering as trade secret and confidential information the material and information described by MPC in its Motion.

On April 7, 1992 MPC filed a Motion to Amend Protective Order to include the "Fogwire Contract" among MPC, TRI and AT&T within the protection of Order No. 5484p. The Commission denied this motion in Order No. 5484u, Docket No. 90.6.39, issued April 22, 1992, on the grounds that the contract was previously disclosed and

subject to testimony in the Docket. Practically speaking, it would be difficult to "protect" the document.

On April 15, 1992 MPC filed a Motion to Amend Protective Order to include a Settlement Agreement among MPC, SGE New York Associates, General Electric Credit Corporation and other parties regarding the sale-lease back agreement of Colstrip Unit No. 4. The Settlement Agreement is subject to a separate confidentiality agreement among the parties, covering documents and discussions leading to and including the Settlement Agreement. MPC asserted that the Settlement Agreement should be considered "trade-secret," pursuant to § 30-14-402(4), MCA, and/or proprietary as competitively sensitive commercial and financial information. Further, MPC asserted that to its knowledge the information has not been released to others, in compliance with the confidentiality agreement.

#### FURTHER FINDINGS AND DISCUSSION

The Commission finds that MPC's April 15, 1992 Motion to Amend the Protective Order should be granted to include the Settlement Agreement among parties as protected confidential information subject to all the requirements of Order No. 5484q in this Docket.

MPC's April 15, 1992 Motion to Amend Protective Order is distinguishable from the April 7, 1992 Motion. The Settlement Agreement, unlike the Fogwire Contract, has not been publicly released or disseminated in previous proceedings.

CONCLUSIONS OF LAW

The Commission exercises jurisdiction over MPC pursuant to Title 69, Chapter 3, Montana Code Annotated (MCA). § § 69-3-101 and 69-3-102, MCA.

The Commission has general powers to do all things necessary and convenient in the exercise of its jurisdiction pursuant to Title 69. § 69-3-103, MCA.

At its discretion, the Commission may issue a protective order when necessary to preserve trade secrets, as defined in § 30-14-402, MCA, in order to carry out its regulatory functions. § 69-3-105, MCA.

ORDER

WHEREFORE, THE Montana Public Service Commission grants MPC's April 15, 1992 Motion to Amend Protective Order. Order No. 5484q is amended to include and protect as confidential the Settlement Agreement among MPC, SGE New York Associates, General Electric Credit Corporation and other parties regarding the sale-lease back agreement of Colstrip Unit No. 4. The provisions of the protective order dated January 31, 1992 have full force and effect and are modified only to the extent that this Motion to Amend is granted. This Order No. 5484v is incorporated into Order No. 5484q.

Done and Dated this 22nd day of April, 1992 by a vote of 3 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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DANNY OBERG, Chairman

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WALLACE W. "WALLY" MERCER, Vice Chairman

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TED C. MACY, Commissioner

ATTEST:

Ann Peck  
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.